IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 5794 OF 2004

IN

CRIMINAL APPEAL NO.1546 OF 2004

Shashikant Shivaji Wagh .. Applicant

versus

State of Maharashtra .. Respondent

...

Mr.Dilip Bodake for the applicant.

Mr.A.M. Shringarpure, APP for the State.

CORAM : V.M. KANADE, J

DATED : 21st December 2004.

P.C:-

1. Heard the learned counsel appearing on behalf of the applicant and the learned APP appearing on behalf of the State.

2. The applicant is convicted for having committed an offence punishable u/s.376 of the IPC and sentenced to suffer RI for 7 years. The prosecution

case is that prosecutrix Kavita was taken by her brother-in-law to Satara for her examination in the civil hospital. After they got down from the bus, instead of taking her to the hospital, he took her to a lodge and thereafter committed rape on her. The prosecution case is that thereafter, the accused committed rape on her when all the members of the family had gone to attend a said programme in the village.

3. Prima facie, there was sufficient time for the prosecutrix to have mentioned this fact of rape to her husband and other members of the family. After the first alleged incident of rape, the prosecutrix admittedly had accompanied her brother-in-law Shashikant to Satara on one other occasion. Thereafter, the second incident of rape had taken place on 25th April 2003 i.e. after a lapse of almost one month. It is difficult to accept the case of the prosecutrix. Prima facie case is made out by the applicant for grant of bail.

4. The applicant be released on bail in the sum of Rs.5,000/- with one or two sureties in the like amount.

V.M. KANADE, J